

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 10-CV-398
	)	
ANTHONY J. BENISH,	)	
	)	
Defendant.	)	
	)	

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**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

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The above matter coming on to be heard before the above Court, Honorable Barbara B. Crabb, United States District Judge for the Western District of Wisconsin, presiding without a jury, on October 27, 2010, the Plaintiff, United States of America ("Plaintiff"), having appeared by its attorney, the Office of the United States Attorney for the Western District of Wisconsin, and no appearance having been made on behalf of the Defendant herein except as may be noted on the record; and the Clerk of the United States District Court for the Western District of Wisconsin having duly entered the default of said Defendant; and it further appearing that due notice of application for judgment has been made to the Defendant, and the Court having heard the matter and fully advised in the premises, therefore makes and files the following findings of fact and conclusions of law constituting its decision in this action.

**Findings of Fact**

1. The allegations of the complaint are proven true.

2. There is now due and unpaid on said note, security agreement, and recorded interests as of October 27, 2010, the sum of \$215,388.35, as set forth in Attachment A.

3. No proceedings have been had at law or otherwise for the recovery of the sum secured by said note, security agreement, and recorded interests.

4. The items of security are described as follows: See Attachment B.

5. Plaintiff is entitled to immediate possession of the items of security on which Farm Service Agency has a security interest, set out in the complaint on file herein, as listed below: See Attachment B.

#### **Conclusions of Law**

1. Plaintiff is entitled to judgment of foreclosure and sale in the usual form, as prayed for in Plaintiff's complaint, and in accordance with the above findings of fact.

2. Anthony J. Benish waived service of the summons and complaint in the above action, and the signed waiver form has been filed with the Court, as set forth in the declaration of Megan McDermott, Assistant United States Attorney, Office of the United States Attorney, on file herein; the time for answering said complaint has expired; no answer or other response or appearance has been served on or received by Plaintiff's attorney from or made by Anthony J. Benish; and the Clerk of Court has duly entered the default of said Defendant.

3. Plaintiff is entitled to recover from Defendant the sum of \$215,388.35, as set forth in Attachment A.

4. The items of security listed in Attachment B may be sold individually or as a whole at a public or private sale.

5. Sale of the items of security listed in Attachment B shall be conducted by or under the direction of the United States Marshal for the Western District of Wisconsin or Farm Service Agency.

6. Defendant and all his heirs, and all persons claiming under them, shall be forever barred and foreclosed of all right, title, interest, and equity of redemption in said items of security so sold.

7. Deficiency judgment may be sought in this action and shall be subject to further application of Plaintiff and further order of this Court.

Now, on application of the United States Attorney for the Western District of Wisconsin, attorney for Plaintiff,

IT IS ORDERED that judgment of foreclosure and sale of said items of security, in the usual form as provided by and in accordance with the above findings of fact and conclusions of law, be entered in this action.

Dated this 21<sup>st</sup> day of October, 2010.

BY THE COURT:

Barbara B. Crabb  
BARBARA B. CRABB  
United States District Judge

Entered at Madison, Wisconsin, this 1<sup>st</sup> day of ~~October~~<sup>November</sup>, 2010.

Peter Oppeneer  
PETER OPPENEER  
Clerk of Court

ATTACHMENT A

UNITED STATES OF AMERICA v. ANTHONY J. BENISH  
Case Number 10-cv-398

a. Principal as of October 27, 2010 \$200,000.00

b. Interest as of October 27, 2010 \$ 15,188.35

Subtotal \$215,188.35

d. Court Cost and Disbursements:

(1) Attorney's Fees \$200.00

Subtotal \$200.00

**TOTAL AS OF OCTOBER 27, 2010** **\$215,388.35**